

MONTANA LEGISLATIVE HISTORY

Chapter 389 19 91

Bill H 485 S _____

Original bill & history ✓ C

H. Committee on Ad. Resources

Hearing Date(s) 2/11 ✓ C

2/13 ✓ C

_____ C

_____ C

Date Out _____ C

S. Committee on Ad. Resources

Hearing Date(s) 3/25 ✓ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes ✓ No

Committee _____

Report _____

	ING OF WHOLESALE OPERATIONS; CLARIFYING ASSIGNMENT OF RECREATIONAL VEHICLE DEALER LICENSE PLATES FOR A LICENSED RECREATIONAL VEHICLE DEALER; PROVIDING QUALIFICATIONS FOR A LICENSEE'S ESTABLISHED PLACE OF BUSINESS; INCREASING THE DOLLAR AMOUNT OF LICENSEES' SURETY BONDS; SETTING FORTH A FEE STRUCTURE AND PROVISIONS RELATED TO LICENSED WHOLESALEERS; AMENDING THE DEPARTMENTAL BASIS FOR DENIAL AND REVOCATION OF DEALER AND WHOLESALE LICENSES; PROVIDING AUTHORIZATION FOR OFF-PREMISES SALES BY LICENSED MOTOR VEHICLE DEALERSHIPS; REQUIRING LICENSED MOTOR VEHICLE DEALER AND WHOLESALE RECORDS TO BE KEPT UPON CERTAIN PREMISES; PROVIDING FOR TRANSFER OF LICENSE FOR LICENSED WHOLESALEERS; PROVIDING THE DEPARTMENT OF JUSTICE WITH AUTHORITY TO REVOKE A LICENSED MOTOR VEHICLE DEALER'S 20-DAY PERMIT PRIVILEGES; PROVIDING FOR THE LICENSING AND REGULATION OF AUTO AUCTIONS DEALING IN MOTOR VEHICLES; AND AMENDING SECTIONS 61-1-314, 61-4-101, 61-4-102, 61-4-103, 61-4-104, 61-4-105, 61-4-106, AND 61-4-119, MCA.	1062
384	(Senate Bill No. 392; Keating) AN ACT ALLOWING PUBLIC ACCESS TO DEATH CERTIFICATES WHEN CONDUCTING A TITLE SEARCH; AND AMENDING SECTIONS 50-15-112 AND 50-15-114, MCA.	1075
385	(House Bill No. 116; Cody) AN ACT REPEALING AN ADMINISTRATIVE RULE, ADOPTED BY THE BOARD OF PUBLIC EDUCATION, THAT REQUIRES EACH SCHOOL TO HAVE A GIFTED AND TALENTED CHILDREN PROGRAM; REPEALING RULE 10.55.804, ADMINISTRATIVE RULES OF MONTANA; AND PROVIDING AN EFFECTIVE DATE.	1077
386	(House Bill No. 173; Pavlovich) AN ACT CLARIFYING CERTAIN PROCEDURES OF THE JUDICIAL STANDARDS COMMISSION; CLARIFYING PUBLIC DISCLOSURE REQUIREMENTS; AMENDING SECTIONS 3-1-1106, 3-1-1109, AND 3-1-1122, MCA; AND PROVIDING AN EFFECTIVE DATE. .	1077
387	(House Bill No. 260; Barnhart) AN ACT REQUIRING INSURERS, HEALTH SERVICE CORPORATIONS, AND HEALTH MAINTENANCE ORGANIZATIONS TRANSACTING HEALTH INSURANCE BUSINESS IN THIS STATE TO PROVIDE COVERAGE FOR ADOPTED CHILDREN TO THE SAME EXTENT AS FOR NATURAL CHILDREN OF THE INSURED; REQUIRING COVERAGE OF AN ADOPTED CHILD'S CONDITIONS THAT EXIST PRIOR TO PLACEMENT OF THE ADOPTED CHILD IN THE ADOPTIVE HOME; AND PROVIDING AN APPLICABILITY DATE.	1079
388	(House Bill No. 545; T. Nelson) AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE MONTANA MEDICAID PROGRAM; REQUIRING FEDERALLY QUALIFIED HEALTH CENTER SERVICES TO BE INCLUDED AS A MEDICAID SERVICE; REVISING AND EXTENDING AUTHORIZATION FOR HOSPICE CARE; PROVIDING FOR THE PURCHASE OF MEDICARE BENEFITS FOR QUALIFIED DISABLED AND WORKING INDIVIDUALS; ALLOWING PAYMENT OF HEALTH INSURANCE EXPENSES FOR MEDICAID-ELIGIBLE PERSONS; REAUTHORIZING AMBULATORY PRENATAL CARE FOR PREGNANT WOMEN DURING A PRESUMPTIVE ELIGIBILITY PERIOD; AMENDING SECTIONS 53-6-101 AND 53-6-131, MCA; AMENDING SECTION 15, CHAPTER 649, LAWS OF 1989; AND PROVIDING AN EFFECTIVE DATE.	1081
389	(House Bill No. 485; Raney) AN ACT REVISING THE AUTHORITY OF THE PETROLEUM TANK RELEASE COMPENSATION BOARD; REVISING CERTAIN DEFINITIONS IN TITLE 75, CHAPTER 11, PART 3; CLARIFYING THE RESPONSIBILITIES OF A PETROLEUM STORAGE TANK OWNER OR OPERATOR AND AN AGENT DESIGNATED FOR REIMBURSEMENT; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO WAIVE NOTIFICATION OF THE EXISTENCE OF A PETRO-	

- LEUM STORAGE TANK AS A PREREQUISITE TO TANK RELEASE REIMBURSEMENT; PROVIDING FOR TRIBAL REVIEW OF CLEANUP PLANS PROPOSED WITHIN A TRIBAL JURISDICTION; REVISING THE ROLES OF THE PETROLEUM TANK RELEASE COMPENSATION BOARD AND THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES IN CLAIMS REVIEW; AMENDING SECTIONS 75-11-302, 75-11-307, 75-11-308, AND 75-11-309, MCA; AND PROVIDING AN EFFECTIVE DATE. 1085
- 390 (House Bill No. 571; J. Rice) AN ACT TO PROVIDE REFERENCES TO THE DRIVER IMPROVEMENT PROGRAM WITHIN THE STATUTES CONCERNING HABITUAL TRAFFIC OFFENDERS; TO PROVIDE FOR AN ADDITIONAL REVOCATION OF THE DRIVER'S LICENSE OR DRIVING PRIVILEGE OF A PERSON CONVICTED AS A HABITUAL OFFENDER OPERATING A MOTOR VEHICLE; TO REPEAL THE REQUIREMENT THAT CERTAIN HIGH MISDEMEANORS BE CERTIFIED TO DISTRICT COURT; AMENDING SECTIONS 61-11-211, 61-11-212, AND 61-11-213, MCA; AND REPEALING SECTION 61-11-214, MCA. 1091
- 391 (House Bill No. 635; Measure) AN ACT TO GENERALLY REVISE THE MONTANA LIVING WILL ACT TO CONFORM TO THE UNIFORM RIGHTS OF THE TERMINALLY ILL ACT; PROVIDING THAT OTHER INDIVIDUALS MAY AUTHORIZE THE WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT; CLARIFYING WHEN A DECLARATION RELATING TO THE USE OF LIFE-SUSTAINING TREATMENT IS OPERATIVE; PROVIDING FOR THE PRESUMPTION OF THE VALIDITY OF DECLARATIONS RELATING TO THE USE OF LIFE-SUSTAINING TREATMENT; AMENDING SECTIONS 50-9-101, 50-9-102, 50-9-103, 50-9-104, 50-9-201, 50-9-202, 50-9-203, 50-9-204, 50-9-205, AND 50-9-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1093
- 392 (House Bill No. 639; Hansen) AN ACT TO AUTHORIZE A LATE FEE FOR LATE RENEWAL OF A LICENSE TO ENGAGE IN THE BUSINESS OF CLEANING SEPTIC TANKS, CESSPOOLS, AND PRIVIES; TO ALLOCATE PROCEEDS FROM LATE FEES AND THE STATE'S SHARE OF ANNUAL LICENSE FEES TO FUND PROGRAMS TO ENFORCE THE LAWS REGULATING THE BUSINESS OF CLEANING SEPTIC TANKS, CESSPOOLS, AND PRIVIES; AND AMENDING SECTION 37-41-202, MCA. 1101
- 393 (House Bill No. 831; J. Brown) AN ACT AUTHORIZING THE DEPARTMENT OF INSTITUTIONS TO ADOPT STANDARDS GOVERNING THE APPROVAL OF CHEMICAL DEPENDENCY TREATMENT PROGRAMS AND RULES GOVERNING THE USE OF COUNTYWIDE TREATMENT PLANS IN DETERMINING COUNTY NEEDS FOR TREATMENT, REHABILITATION, AND PREVENTION OF CHEMICAL DEPENDENCY; AND AMENDING SECTIONS 53-24-208 AND 53-24-211, MCA. 1102
- 394 (House Bill No. 974; Peck) AN ACT ESTABLISHING A RURAL PHYSICIAN INCENTIVE PROGRAM; CREATING A RURAL PHYSICIAN INCENTIVE TRUST FUND; PROVIDING FUNDING FOR THE RURAL PHYSICIAN INCENTIVE TRUST FUND; PROVIDING EDUCATIONAL DEBT PAYMENT PROVISIONS FOR ELIGIBLE RURAL PHYSICIANS; AUTHORIZING THE BOARD OF REGENTS OF HIGHER EDUCATION TO CHARGE CERTAIN STUDENTS FEES FOR PURPOSES OF FUNDING THE PROGRAM; STATUTORILY APPROPRIATING THE RURAL PHYSICIAN INCENTIVE TRUST FUND TO THE BOARD OF REGENTS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE. 1104
- 395 (Senate Bill No. 107; Bengtson) AN ACT REVISING THE AMOUNT OF MONEY A LOCAL GOVERNMENT MAY APPROPRIATE TO FINANCE A STUDY COMMISSION; AND AMENDING SECTION 7-3-184, MCA. 1106
- 396 (Senate Bill No. 276; Fritz) AN ACT REQUIRING PAYMENT OF A PARTIAL SALARY TO A FIREFIGHTER INJURED IN THE PERFORMANCE OF DUTY. 1107

HB 481 INTRODUCED BY WALLIN

AUTHORIZE SALE OF TAX-DEED LAND FOR MARKET VALUE TO
PURCHASER AFTER AUCTION

1/30	INTRODUCED		
1/30	REFERRED TO TAXATION		
1/31	FIRST READING		
2/12	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED		
2/15	2ND READING PASSED	99	0
2/18	3RD READING PASSED	98	1
	TRANSMITTED TO SENATE		
2/19	FIRST READING		
2/19	REFERRED TO TAXATION		
3/11	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	49	0
3/14	3RD READING CONCURRED	47	1
	RETURNED TO HOUSE		
3/20	SIGNED BY PRESIDENT		
3/20	SIGNED BY SPEAKER		
3/21	TRANSMITTED TO GOVERNOR		
3/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 185		
		EFFECTIVE DATE: 3/26/91	

HB 482 INTRODUCED BY PETERSON, ET AL.

EMPLOYMENT OF PHYSICIANS BY HOSPITALS
AND MEDICAL ASSISTANCE FACILITIES

1/30	INTRODUCED
1/30	REFERRED TO HUMAN SERVICES & AGING
1/31	FIRST READING
	DIED IN COMMITTEE

HB 483 INTRODUCED BY KADAS, ET AL.

AUTHORIZE MUNICIPALITIES TO ESTABLISH FIRE SERVICE AREAS

1/30	INTRODUCED
1/30	REFERRED TO LOCAL GOVERNMENT
1/31	FIRST READING
2/19	HEARING
2/19	TABLED IN COMMITTEE

HB 484 INTRODUCED BY RANEY, ET AL.

PROHIBIT OPENCUT MINING IN RESIDENTIAL AREAS

1/30	INTRODUCED
1/30	REFERRED TO NATURAL RESOURCES
1/31	FIRST READING
2/08	HEARING
2/11	TABLED IN COMMITTEE

HB 485 INTRODUCED BY RANEY, ET AL.

REVISING THE AUTHORITY OF THE PETROLEUM TANK RELEASE
COMPENSATION BOARD

BY REQUEST OF PETROLEUM TANK RELEASE COMPENSATION BOARD

1/30	INTRODUCED
1/30	REFERRED TO NATURAL RESOURCES
1/31	FIRST READING
1/31	FISCAL NOTE REQUESTED
2/04	FISCAL NOTE RECEIVED
2/07	FISCAL NOTE PRINTED
2/11	HEARING

2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/16	2ND READING PASSED	79	11
2/19	3RD READING PASSED	87	10
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO NATURAL RESOURCES		
3/25	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/28	2ND READING CONCURRED	49	0
4/01	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
4/03	SIGNED BY SPEAKER		
4/03	SIGNED BY PRESIDENT		
4/03	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 389		

EFFECTIVE DATE: 7/01/91

HB 486 INTRODUCED BY WANZENRIED

APPROPRIATE MONEY TO OFFICE OF PUBLIC INSTRUCTION
TO DEVELOP AND SELL ACCOUNTING SOFTWARE

1/31	INTRODUCED		
1/31	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/31	FIRST READING		
2/13	HEARING		
	DIED IN COMMITTEE		

HB 487 INTRODUCED BY WYATT, ET AL

LIMIT RELOCATION OF SHOOTING RANGE AND
COMPENSATE FOR RELOCATION OF RANGE

1/31	INTRODUCED		
1/31	REFERRED TO LOCAL GOVERNMENT		
1/31	FIRST READING		
2/19	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	PLACED ON CONSENT CALENDAR		
2/23	3RD READING PASSED	84	14
	TRANSMITTED TO SENATE		
2/25	FIRST READING		
2/25	REFERRED TO FISH & GAME		
3/14	HEARING		
3/27	COMMITTEE REPORT—BILL CONCURRED		
4/03	2ND READING CONCURRED	48	2
4/04	3RD READING CONCURRED	44	6
	RETURNED TO HOUSE		
4/11	SIGNED BY SPEAKER		
4/11	SIGNED BY PRESIDENT		
4/11	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 415		

EFFECTIVE DATE: 4/15/91

HB 488 INTRODUCED BY O'KEEFE, ET AL

USE USDA COST OF RAISING A CHILD TO SET THE RATE OF
PAYMENT FOR FOSTER CARE

1/31	INTRODUCED		
1/31	REFERRED TO HUMAN SERVICES & AGING		
1/31	FIRST READING		
1/31	FISCAL NOTE REQUESTED		
2/05	FISCAL NOTE RECEIVED		
2/07	FISCAL NOTE PRINTED		
2/11	HEARING		

HOUSE BILL NO. 485

INTRODUCED BY RANEY, HARP, STANG, O'KEEFE
BY REQUEST OF THE PETROLEUM TANK
RELEASE COMPENSATION BOARD

IN THE HOUSE

JANUARY 30, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
JANUARY 31, 1991	FIRST READING.
FEBRUARY 14, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 15, 1991	PRINTING REPORT.
FEBRUARY 16, 1991	SECOND READING, DO PASS.
FEBRUARY 18, 1991	ENGROSSING REPORT.
FEBRUARY 19, 1991	THIRD READING, PASSED. AYES, 87; NOES, 10.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 26, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 28, 1991	SECOND READING, CONCURRED IN.
APRIL 1, 1991	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 1, 1991	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 *Amend* BILL NO. *485*
2 INTRODUCED BY *Randy HARP King*
3 *Rife* BY REQUEST OF THE PETROLEUM TANK
4 RELEASE COMPENSATION BOARD
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE AUTHORITY
7 OF THE PETROLEUM TANK RELEASE COMPENSATION BOARD; REVISING
8 CERTAIN DEFINITIONS IN TITLE 75, CHAPTER 11, PART 3;
9 CLARIFYING THE RESPONSIBILITIES OF A PETROLEUM STORAGE TANK
10 OWNER OR OPERATOR AND AN AGENT DESIGNATED FOR REIMBURSEMENT;
11 AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
12 SCIENCES TO WAIVE NOTIFICATION OF THE EXISTENCE OF A
13 PETROLEUM STORAGE TANK AS A PREREQUISITE TO TANK RELEASE
14 REIMBURSEMENT; PROVIDING FOR TRIBAL REVIEW OF CLEANUP PLANS
15 PROPOSED WITHIN A TRIBAL JURISDICTION; REVISING THE ROLES OF
16 THE PETROLEUM TANK RELEASE COMPENSATION BOARD AND THE
17 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES IN CLAIMS
18 REVIEW; AMENDING SECTIONS 75-11-302, 75-11-307, 75-11-308,
19 AND 75-11-309, MCA; AND PROVIDING AN EFFECTIVE DATE."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 75-11-302, MCA, is amended to read:

23 "75-11-302. Definitions. The following definitions
24 apply to this part:

25 (1) "Accidental release" means a sudden or nonsudden

1 release, neither expected nor intended by the tank owner or
2 operator, of petroleum or petroleum products from a storage
3 tank that results in a need for corrective action or
4 compensation for third party bodily injury or property
5 damage.

6 (2) "Board" means the petroleum tank release
7 compensation board established in 2-15-2108.

8 (3) "Bodily injury" means physical injury, sickness, or
9 disease sustained by an individual, including death that
10 results from the physical injury, sickness, or disease at
11 any time.

12 (4) "Claim" means a written request prepared and
13 submitted by an owner or operator or an agent of the owner
14 or operator for reimbursement of expenses caused by an
15 accidental release from a petroleum storage tank.

16 (5) "Corrective action" means investigation,
17 monitoring, cleanup, restoration, abatement, removal, and
18 other actions necessary to respond to a release.

19 (6) "Department" means the department of health and
20 environmental sciences provided for in Title 2, chapter 15,
21 part 21.

22 (7) "Distributor" means a distributor as defined in
23 15-70-201.

24 (8) "Eligible costs" means expenses reimbursable under
25 75-11-307.

INTRODUCED BILL
AB 485

(9) "Fee" means the petroleum storage tank cleanup fee provided for in 75-11-314.

(10) "Fund" means the petroleum tank release cleanup fund established in 75-11-313.

(11) "Gasoline" means gasoline as defined in 15-70-201.

(12) "Operator" means a person in control of or having responsibility for the daily operation of a petroleum storage tank.

(13) "Owner" means a person who holds title to, controls, or possesses an interest in a petroleum storage tank. The term does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.

(14) "Person" means an individual, firm, trust, estate, partnership, company, association, joint stock company, syndicate, consortium, commercial entity, corporation, or agency of state or local government.

(15) "Petroleum" or "petroleum products" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute) and that is not augmented or compounded by more than a minimal amount of another substance.

(16) "Petroleum storage tank" means a tank that contains

is being used to actively receive, dispense, or store petroleum or petroleum products when a release is discovered or that was actively used for any of these purposes no more than 1 year before the date that a release is discovered and that is:

(a) an underground storage tank as defined in 75-10-403;

(b) a storage tank that is situated in an underground area such as a basement, cellar, mine, draft drift, shaft, or tunnel;

(c) an above ground storage tank with a capacity less than 30,000 gallons; or

(d) above ground or underground pipes associated with tanks under subsections (16)(b) and (16)(c), except that pipelines regulated under the following laws are excluded:

(i) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671, et seq.);

(ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.); and

(iii) state law comparable to the provisions of law referred to in subsections (16)(d)(i) and (16)(d)(ii), if the facility is intrastate.

(17) "Property damage" means:

(a) physical injury to tangible property, including loss of use of that property caused by the injury; or

(b) loss of use of tangible property that is not physically injured.

(18) "Release" means ~~a release, as defined in 75-10-701,~~ any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum or petroleum products from a petroleum storage tank into ground water, surface water, surface soils, or subsurface soils."

Section 2. Section 75-11-307, MCA, is amended to read:

"75-11-307. Reimbursement for expenses caused by a release. (1) Subject to the availability of funds under subsection (5), an owner or operator who is eligible under 75-11-308 and complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

(a) corrective action costs; and

(b) compensation paid to third parties for bodily injury or property damage.

(2) An owner or operator may not be reimbursed from the fund for the following expenses:

(a) corrective action costs or the costs of bodily injury or property damage paid to third parties that are determined by the board to be ineligible for reimbursement;

(b) costs for bodily injury and property damage, other than corrective action costs, incurred by the owner or

operator;

(c) penalties or payments for damages incurred under actions by the department, board, or federal, state, local, or tribal agencies or other government entities involving judicial or administrative enforcement activities and related negotiations;

(d) attorney fees and legal costs of the owner, operator, or a third party;

(e) costs for the repair or replacement of a tank or piping or costs of other materials, equipment, or labor related to the operation, repair, or replacement of a tank or piping;

(f) expenses incurred before April 13, 1989;

(g) expenses exceeding the maximum reimbursements provided for in subsection (4).

(3) An owner or operator may designate a person as his agent to receive the reimbursement, provided that the owner or operator remains legally responsible for all costs and liabilities incurred as a result of the release.

(4) Subject to the availability of funds under subsection (5), for releases that are discovered and reported on or after April 13, 1989, the board shall reimburse an owner or operator for 50% of the first \$35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$982,500.

(5) If the fund does not contain sufficient money to pay approved claims for eligible costs, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board."

Section 3. Section 75-11-308, MCA, is amended to read:

"75-11-308. Eligibility. (1) An owner or operator is eligible for reimbursement for eligible costs caused by a release from a petroleum storage tank only if:

(a) the release was discovered on or after April 13, 1989;

(b) the department is notified of the release in the manner and within the time provided by law or rule;

(c) the department has been notified of the existence of the tank in the manner required by department rule or has waived the requirement for notification;

(d) the release was an accidental release; and

(e) with the exception of the release, the operation and management of the tank complied with applicable state and federal laws and rules when the release occurred and remained in compliance following detection of the release.

(2) An owner or operator is not eligible for reimbursement for expenses caused by releases from the

following petroleum storage tanks:

(a) a tank located at a refinery or a terminal of a refiner;

(b) a tank located at an oil and gas production facility;

(c) a tank that is or was previously under the ownership or control of a railroad;

(d) a tank belonging to the federal government;

(e) a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes or a tank used for storing heating oil for consumptive use on the premises where stored;

(f) a tank owned or operated by a person who has been convicted of a substantial violation of state or federal law or rule that relates to the installation, operation, or management of petroleum storage tanks; or

(g) a mobile storage tank used to transport petroleum or petroleum products from one location to another."

Section 4. Section 75-11-309, MCA, is amended to read:

"75-11-309. Procedures for reimbursement of eligible costs. (1) An owner or operator seeking reimbursement for eligible costs and the department shall comply with the following procedures:

(a) If an owner or operator discovers or is provided evidence that a release may have occurred from his petroleum

1 storage tank, he shall immediately notify the department of
2 the release and conduct an initial response to the release
3 in accordance with state and federal laws and rules to
4 protect public health and safety and the environment.

5 (b) The owner or operator shall conduct a thorough
6 investigation of the release, report the findings to the
7 department, and, as determined necessary by the department,
8 prepare and submit for approval by the department a
9 corrective action plan that conforms with state, tribal
10 (where applicable), and federal corrective action
11 requirements.

12 (c) (i) The department shall review the corrective
13 action plan and forward a copy to a local government office
14 and, where applicable, a tribal government office with
15 jurisdiction over a corrective action for the release. The
16 local or tribal government office shall inform the
17 department if it wants any modification of the proposed
18 plan.

19 (ii) Based on its own review and comments received from
20 a local government, tribal government, or other source, the
21 department may approve the proposed corrective action plan,
22 make or request the owner or operator to modify the proposed
23 plan, or prepare its own plan for compliance by the owner or
24 operator. A plan finally approved by the department through
25 any process provided in this subsection (c) is the approved

1 corrective action plan.

2 (iii) After the department approves a corrective action
3 plan, a local government or tribal government may not impose
4 different corrective action requirements on the owner or
5 operator.

6 (d) The department shall notify the owner or operator
7 and the board of its approval of a corrective action plan.

8 (e) The owner or operator shall implement the approved
9 plan. The department may oversee the implementation of the
10 plan, require reports and monitoring from the owner or
11 operator, undertake inspections, and otherwise exercise its
12 authority concerning corrective action under Title 75,
13 chapter 10, parts 4 and 7, and other applicable law and
14 rules.

15 (f) The owner or operator shall document in the manner
16 required by the board all expenses incurred in preparing and
17 implementing the corrective action plan. The owner or
18 operator shall submit claims and substantiating documents to
19 the department board in the form and manner required by the
20 board. The department board shall forward each claim and
21 appropriate documentation to the board department. and The
22 department shall notify the board of any costs that the
23 department considers not reimbursable because of any failure
24 to meet the requirements of subsection (2). The department
25 shall inform the owner or operator of any notification given

1 to the board.

2 (g) The owner or operator shall document, in the manner
3 required by the board, any payments to a third party for
4 bodily injury or property damage caused by a release. The
5 owner or operator shall submit claims and substantiating
6 documents to the board in the form and manner required by
7 the board.

8 (2) The board shall review each claim received under
9 subsections (1)(f) and (1)(g), make the determination
10 required by this subsection, inform the owner or operator of
11 its determination, and, as appropriate, reimburse the owner
12 or operator from the fund. Before approving a reimbursement,
13 the board shall affirmatively determine that:

14 (a) the expenses for which reimbursement is claimed:

15 (i) are eligible costs; and

16 (ii) were actually, necessarily, and reasonably incurred
17 for the preparation or implementation of a corrective action
18 plan approved by the department or for payments to a third
19 party for bodily injury or property damage; and

20 (b) the owner or operator:

21 (i) is eligible for reimbursement under 75-11-308; and

22 (ii) has complied with this section and any rules
23 adopted pursuant to this section.

24 (3) If an owner or operator disagrees with a board
25 determination under subsection (2), he may submit a written

1 request for a hearing before the board. The hearing must be
2 held at a meeting of the board no later than 120 days
3 following receipt of the request or at a time mutually
4 agreed to by the board and the owner or operator.

5 (4) The board shall obligate money for reimbursement of
6 eligible costs of owners and operators in the order that the
7 costs are finally approved by the board.

8 (5) (a) The board may, at the request of an owner or
9 operator, guarantee in writing the reimbursement of eligible
10 costs that have been approved by the board but for which
11 money is not currently available from the fund for
12 reimbursement.

13 (b) The board may, at the request of an owner or
14 operator, guarantee in writing reimbursement of eligible
15 costs not yet approved by the board, including estimated
16 costs not yet incurred. A guarantee for payment under this
17 subsection (5)(b) does not affect the order in which money
18 in the fund is obligated under subsection (4).

19 (c) When considering a request for a guarantee of
20 payment, the board may require pertinent information or
21 documentation from the owner or operator. The board may
22 grant or deny, in whole or in part, any request for a
23 guarantee."

24 NEW SECTION. Section 5. Saving clause. Nothing in
25 [this act] applies to alter a claim for reimbursement that

1 was filed before [the effective date of this act] or that
2 arose pursuant to a corrective action plan approved by the
3 department before [the effective date of this act].

4 NEW SECTION. **Section 6.** Effective date. [This act] is
5 effective July 1, 1991.

-End-

CHAIRMAN--BOB RANEY

NORMAL SCHEDULE==> SITE: ROOM 317

DAYS: TU,TH

TIME: 3:00 P.M.

SECRETARY--LISA FAIRMAN

---BILL NO---	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0380	1/24	2/06		PASS AS AMENDED		2/16
DAILY, FRITZ			REQUIRE IMMEDIATE REMEDIAL ACTION TO PREVENT AQUIFER CONTAMINATION			
HB0382	1/24	2/04		PASS AS AMENDED		2/09
SWYSGOOD, CHARLES			GENERALLY REVISE THE DAM SAFETY ACT			
HB0383	1/24	2/04		DO PASS		2/07
RANEY, BOB			HAZARDOUS WASTE FUELS REGULATION			
HB0399	1/25	2/18		TABLED ON 02/20		
CONNELLY, MARY ELLEN			SUBDIVISION REVIEW RESTRICTIONS ON LOCAL GOVERNMENT			
HB0401	1/25	2/18				
BROWN, DAVE			AUTHORIZE BD OF LAND COMMISSIONERS TO IMPLEMENT ST LANDS REC ACCESS PROGRAM			
HB0414	1/28	2/04		PASS AS AMENDED	APPROPRIATIONS	2/07
COHEN, BEN			ESTABLISHING A WATER QUALITY REHABILITATION ACCOUNT			
HB0448	1/30	2/08		PASS AS AMENDED		2/09
REAM, BOB			AMEND THE METAL MINE RECLAMATION LAWS			
HB0476	1/30	3/06		TABLED ON 03/20		
COHEN, BEN			TIMBER SEVERANCE TAX			
HB0484	1/30	2/08		TABLED ON 02/11		
RANEY, BOB			PROHIBIT OPENCUT MINING IN RESIDENTIAL AREAS			
HB0485	1/30	2/11		PASS AS AMENDED		2/14
RANEY, BOB			REVISING THE AUTHORITY OF THE PETROLEUM TANK RELEASE COMPENSATION BOARD			
HB0524	1/31	2/13		PASS AS AMENDED	APPROPRIATIONS	2/14

HEARING ON HB 551

Presentation and Opening Statement by Sponsor:

REP. MARK O'KEEFE, HD 45, Helena, stated that HB 551 cleans up the Wastewater Revolving Fund Loan Act, passed last session. The fund is administered by the Department of Health and Environmental Sciences (DHES) and they will explain the technical changes in the bill.

Proponents' Testimony:

Dan Fraser, DHES, stated he was standing in for Scott Anderson. EXHIBIT 8 Mr. Fraser stated DHES supports HB 551.

Opponents' Testimony: none

Questions From Committee Members:

REP. HOWARD TOOLE asked how soon will the federal loan program be implemented and the monies available. Anne Miller, Department of Natural Resources and Conservation (DNRC), stated that DNRC is implementing the financial end of the program. State bonds will be issued this spring. Federal grants will be available soon. A number of project applications have been submitted to DHES and DNRC for their review. DNRC and DHES will review them to make sure they comply with technical and financial requirements.

Closing by Sponsor:

REP. O'KEEFE stated HB 551 cleans up the funding transfer flow specifically related to bonds and federal monies. If the bill dies, the process will still function but not as smoothly.

HEARING ON HB 485

Presentation and Opening Statement by Sponsor:

REP. BOB RANEY, HD 82 - Livingston, stated HB 485 deals with underground storage tanks. The bill is primarily a house keeping bill. The bill will enable people to stay in business while ensuring that they keep the environment clean.

Proponents' Testimony:

Jean Riley, Petroleum Tank Release Compensation Board, supported HB 485. EXHIBIT 9

Ronna Alexander, Montana Petroleum Marketers, supported HB 485. She stated she was involved in the drafting of similar legislation in previous sessions.

Franklin Gessaman, Department of Health and Environmental Sciences (DHES), supported HB 485. EXHIBIT 10

Candy Mills, Mill's Repair, supported HB 485 and presented a proposed amendment. EXHIBIT 11 She stated that while the fund may be used to demonstrate financial responsibility for \$982,500, many small businesses are unable to meet the requirements to show financial responsibility for the remaining \$17,500 by October 31, 1991, as required by underground storage tank regulations. Small businesses are unable to meet the requirements for numerous reasons: they may have low net worth, an inability to obtain a letter of credit, or insurance may not be available to stations that haven't made system upgrades that are required by 1998. The amount of \$10,000 in shared deductible seems to be sufficient to eliminate concern about tank owners' responsibility and yet it remains within the range of smaller businesses. If it isn't lowered, many small businesses will be in a state of noncompliance for a lack of ability to meet the financial responsibility requirement. Ms. Mills submitted a letter from her bank's president, Douglas Tillett that addresses the issue. EXHIBIT 12

REP. JOE BARNETT, HD 76, supported HB 485 and the proposed amendment. The amendment will allow small companies to remain in business.

Opponents' Testimony: none

Questions From Committee Members:

REP. COHEN asked Ms. Riley to respond to Ms. Mill's amendment. Ms. Riley stated the approximate difference would be \$377,000, which would raise payments by that amount. REP. COHEN asked how much money is currently in the fund. Ms. Riley replied \$5,000,000. REP. TOOLE asked what this means. Ms. Riley responded that claims have increased drastically but the ramifications are unknown. REP. TOOLE asked where DHES stood on this matter. Ms. Riley replied she would need to consult with the Board before responding to that question. VICE-CHAIR O'KEEFE asked Ms. Riley to obtain a formal opinion from the Board for the committee. She agreed to do so. REP. ELLISON commented that the issue of excessively depleting the fund is important. REP. COHEN stated that the bill didn't go low enough, therefore, it does not protect small businesses. REP. RANEY stated the bill was originally introduced last session without any co-payments. The co-insurance was added either by a veto or a threat of a veto. REP. COHEN asked if there were any objections to the Mill's amendment. REP. RANEY replied he has no objection to the amendment. It may result in a big drive on the fund. The tax goes off when the fund hits \$8,000,000 and back on when it drops to \$4,000,000. REP. HOFFMAN stated that according to Ms. Riley's handout, the Board has paid on 11 abandoned tanks to the sum of \$46,000, but the language would eliminate abandoned tanks from coverage. REP. HOFFMAN reiterated concerns stated by REP. COHEN.

REP. RANEY stated that is the one policy issue of this bill. The rest is clean-up language. REP. HOFFMAN asked REP. RANEY if his decision as sponsor of the bill was to exclude abandoned tanks. REP. RANEY replied not really. He stated his concern, along with the small business owner, is to clean up the environment. If people realize they can remove tanks for \$5000, then maybe more people will come forward. The \$17,500 may be too high and may discourage people from coming forth. There may be significant impacts to the fund if it is lowered too much. REP. HOFFMAN suggested amending the bill to include the abandoned tanks. The cost of \$46,000, which is 5% of the fund, is a small price to pay to clean up the tanks. Ms. Riley said the Board has mixed feelings on this issue. The Board put in the language not knowing what the intent of the Legislature was. It can be changed. Presently, it says a "tank containing product." The legal opinion was if the tank was underground as of April 13, 1989 then the Department would cover it. It is not actually defined as "a tank containing product". Many abandoned tanks do not have product in them.

REP. GILBERT asked REP. RANEY what are the chances for a small gas station operator to buy liability insurance for leaky underground tanks. REP. RANEY replied they can't get it. REP. GILBERT stated the fund is established in lieu of insurance. The individuals have the responsibility of making insurance payments. This is what the \$17,500 is for. It could be construed as the liability insurance premium the small business would pay if they could get insurance. REP. RANEY responded that it could be construed as that but the program was developed out of fear of the potential tremendous costs. REP. GILBERT stated he feels station owners should have some responsibility because it is their businesses that caused the problem. The potential financial burden may provide them incentive to be more responsible owners. REP. RANEY agreed and stated that \$5000 may be enough incentive. The committee may need to decide what would be an appropriate monetary amount.

REP. DOLEZAL asked Ms. Alexander to explain the rationale to exclude defunct tanks. Ms. Alexander responded that the owners must meet EPA financial requirements for insurance to remain in business. The intention of this fund was not to cover abandoned tanks, tanks with no responsible party identified. REP. TOOLE asked how the \$17,500 figure was arrived at. Ms. Alexander explained that when HB 603 was first written it was with a \$25,000 deductible with a two-year amnesty. For the first two years of the fund's operation, there would be no up-front dollars paid by the tank owner. The administration was concerned about the fund's potential liability and the fact that the fund could be bankrupt up-front. The administration decided to put in a \$35,000 shared deductible. REP. TOOLE asked how was that to be funded.

Ms. Alexander responded the \$35,000 shared deductible means, for instance, that if there's a cleanup costing \$10,000, \$5000 would be the responsibility of the tank owner and \$5000 would come from the fund. The maximum outlay by a tank owner would be \$17,500. REP. HOFFMAN asked if any fees are associated with the abandoned tanks. Ms. Alexander stated that there is a fee on gasoline purchased by a distributor. The distributor pays it once a month with taxes. If a tank has been abandoned for numerous years, it is not generating fee money. REP. GILBERT inquired if the Lust Trust Fund addresses orphaned tanks. Ms. Alexander said the Lust Trust Fund was initially established to cover orphaned tanks. Montana Petroleum Products feels that the Lust Trust Fund should cover situations when a responsible party cannot be found. The State has not worked well with this outlook.

REP. WANZENRIED asked if the change of wording on page 4, results in abandoned tanks included or excluded. Ms. Riley stated the intent is to take them out. REP. WANZENRIED asked if that will increase the number of clean-ups. Ms. Riley replied yes but that she did not know by how many and if funding problems may occur. It could jeopardize EPA approval for funding. REP. WANZENRIED inquired how many tanks may be eliminated. Ms. Riley answered that there are over 50% more tanks than they originally estimated. REP. WANZENRIED asked if she had any idea of the fiscal impact. She replied that she did not know. If ground water contamination has occurred the expense could be great. REP. NELSON asked for a definition of tanks. Ms. Riley replied it included petroleum tanks at service stations, commercial tanks and tanks 1100 gallons or less that are either above ground or below ground at residences and farms. REP. NELSON commented that there may be numerous tanks.

Closing by Sponsor:

REP. RANEY stated that the policy may have great impact. The intent of the legislation is to ensure cleanup of active tanks and to do so in a manner that will keep small businesses in operation. The bill was not intended to cover abandoned tanks. This subject may be more appropriately addressed in another bill but it can remain in HB 485 if the committee chooses. The issue of what the co-payment should be set at needs to be addressed. At some point the line needs to be drawn. REP. RANEY urged committee input and support.

HEARING ON SB 139

Presentation and Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, SD 41, Big Timber, stated SB 139 is a clean-up bill of a confusing part of Conservation District law in reference to administrative or district mill levy funding. There were two sections of this law that deals with this issue. In 1983, the legislature amended one but overlooked the other.

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-11-91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

TESTIMONY

Petroleum Tank Release Compensation Board
Jean Riley, Executive Director

The Petroleum Tank Release Compensation Board (Board) requested the proposed changes to Title 75 Chapter 11 Part 3. The Board is trying to clarify some issues which have come to light since this statute became effective in 1989. The following are the Board's reasoning behind the proposed changes and some proposed amendments which should help to further clarify the issues.

A. Definition of petroleum or petroleum products.

(15) "Petroleum" or "Petroleum products" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute) or motor fuel blend, such as gasohol, and that is not augmented or compounded by more than a minimal de minimis amount of another substance.

The reason for this change is to clarify that mixtures of waste oil and waste water or other mixtures with no commercial application are excluded, and that releases of mixtures of petroleum and hazardous substances which could result in hazardous waste also would be excluded.

B. Definition of petroleum storage tank.

(16) "Petroleum storage tank" means a tank that contains is being used to actively receive, dispense, or store petroleum or petroleum products when a release is discovered or that was actively used for any of these purposes no more than 1 year before the date that a release is discovered placed out of service on a temporary basis and is in compliance with department rule and that is:

The Board would like a clarification from the Legislature as to whether or not abandoned or defunct tanks not in use at the time the law went into effect, April 13, 1989, should be covered. The proposed language would exclude the defunct tanks. To date the Board has paid in excess of \$46,000.00 on 11 abandoned tank sites.

C. Definition of release.

The Board feels that the definition of release used by the Department of Health and Environmental Sciences (DHES) Underground Storage Tank Program better describes a release from a petroleum storage tank than the CECRA definition for release. The CECRA definition includes release from the abandonment or discarding of barrels, containers, and other closed receptacles which does not fit into the definition of a petroleum storage tank.

D. Limit assignment to designated representatives.

The Board has had problems in the past with owners not paying contractors for charges that the Board found to be ineligible. These charges include replacement costs and closure costs which are excluded by statute. The language clarifies that the owner or operator remains responsible for reimbursement of contractors or consultants.

E. Extend eligibility in some non-notification situations.

The Board has found that in some cases the DHES has waived the tank notification requirements. This proposed change would allow the Board the same flexibility.

F. Recognize tribal government authority.

The objective of this change is to allow the Board and DHES to recognize authority of tribal governments over tank leaks in Indian country, as EPA would require. This mainly makes sure that the tribal authority is notified similar to a local governmental agency.

E. Clarify Board and DHES roles in claim review process.

This would revise the statutory provision in the current statute to read like the actual practice. The claims are received by the Board staff and once determined to be complete, the Board staff transfers them to DHES for their review. This has been working well and the change would reflect this.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

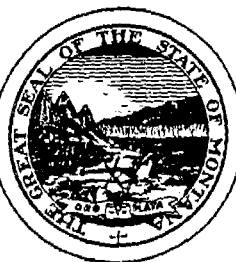
DATE 2/11/91

HB 485

UNDERGROUND STORAGE TANK PROGRAM
(406) 444-5970

STAN STEPHENS, GOVERNOR

FAX #(406) 444-1499



STATE OF MONTANA

OFFICE 836 Front Street
LOCATION: Helena, Montana

MAILING Cogswell Building
ADDRESS: Helena, MT 59620

TESTIMONY
for the
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
before the
HOUSE NATURAL RESOURCE COMMITTEE

HOUSE BILL 485
February 11, 1991

The Department of Health and Environmental Sciences supports the passage of House Bill 485.

The Department's Underground Storage Tank Program works closely with the Petroleum Tank Release Compensation Board. The changes mandated by House Bill 485 will enhance the Board's ability to effectively administer claims and provide reimbursement of eligible costs incurred during the cleanup and remediation of accidental petroleum releases from underground storage tanks and piping.

The Department urges the Committee to give House Bill 485 favorable consideration.

Frank Gessomon

EXHIBIT 11
DATE 2/11
71 HB 485

To:
Representative Bob Raney, Chairman
House Natural Resources Committee

From:
Candy Mills, Owner
Mills Repair, Belgrade, MT

Feb. 11. 1991

Request for an amendment to HB0485

Please refer to page 6 of HB0485, line 20, which is Section 2(4) of Section 75-11-302, MCA. Regarding the shared deductible as exists in the Petroleum Tank Release Compensation Fund.

HB0485 amended to read:

As of effective date of HB0485, for releases that are discovered and reported on or after effective date, the board shall reimburse an owner or operator for 50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$995,000.



Valley Bank

P.O. Box 106 • 406-388-4283
Belgrade, MT 59714

DATE 2/11/91
HB 485

February 11, 1991

Honorable Robert Raney
Chairman, Natural Resources Committee
Montana House of Representatives
Helena, Montana 59601

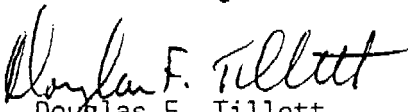
Dear Representative Raney:

Please accept this letter in support of amending language to House Bill 485 to allow for a lower deductible on the State Super Fund for the cleanup of contaminated sites. At the present level of \$17,500, many small operators are unable to provide a letter of credit to cover their share of potential clean-up projects. This burden not only limits their credit availability, which at times may be very marginal due to the smaller size of their operation, but also prohibits them from any longer range planning because of the large potential liability. I feel they certainly are not trying to avoid their responsibility, but realistically must realize the possibility of the failure of their business if called upon to provide a letter of credit of that magnitude.

Please consider a lower deductible limit as House Bill 485 is discussed.

Thank you for your time and understanding of this consequential situation.

Sincerely, .


Douglas F. Tillett
President

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 485
DATE 2-11-91 SPONSOR(S) Rep. Raney - Petroleum Tanks
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Bono Alexander</u>	<u>Mt. Petroleum Marketers</u>	<u>X</u>	
<u>Candy Mills</u>	<u>(Mills Repair) self</u>	<u>X</u>	
<u>Randy Mills</u>	<u>Mills Repair</u>	<u>X</u>	
<u>Franklin Gessaman</u>	<u>SDHES</u>	<u>X</u>	
<u>Jean Riley</u>	<u>Petro. Tank Release Comp. Board</u>	<u>X</u>	
<u>Chris Kaufmann</u>	<u>MEIC</u>	<u>X</u>	
<u>Joe Barnett</u>	<u>Rep. H.D. 76</u>	<u>X</u>	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Vote: Motion to adopt amendments carried 15 to 1, with Rep. Foster voting no and Reps. Ream and Gilbert absent for voting.

Motion/Vote: REP. O'KEEFE MADE A SUBSTITUTE MOTION THAT HB 360 DO PASS AS AMENDED. Motion carried 15 to 1, with Rep. Foster voting no and Reps. Ream and Gilbert absent for voting.

EXECUTIVE ACTION ON HB 361

Motion: REP. O'KEEFE MOVED HB 361 DO PASS.

Motion: REP. O'KEEFE moved to adopt amendments prepared by Michael Kakuk. EXHIBIT 11

Discussion: REP. HARPER, sponsor of HB 361, stated that the subcommittee on HB 361 met and agreed upon the amendments. The essence of the amendments are to ensure that reserved water rights established post-1973 are subjugated to the same process and adjudication as those established prior to 1973. CHAIR RANEY asked what changes are being made with the amendments. REP. HARPER responded that the amendments clarify what rights are affected and to ensure that it is clear to the federal government. CHAIR RANEY stated that there would be no affect on the existing process or on agriculture. REP. HARPER responded that is correct. REP. O'KEEFE clarified that the bill states that water rights established after 7/1/73 will be dealt with in the same manner as rights established before 7/1/73. The process has never been clear. This bill is intended to clarify the process.

Vote: Motion to adopt amendments carried unanimously with Rep. Ream absent from voting.

Motion/Vote: REP. O'KEEFE MADE A SUBSTITUTE MOTION THAT HB 361 DO PASS AS AMENDED. Motion carried unanimously with Rep. Ream absent from voting.

EXECUTIVE ACTION ON HB 485

Discussion: CHAIR RANEY stated that Jean Riley, Department of Health and Environmental Sciences - Petroleum Tank Release Compensation Board, polled the Board's members to determine their concerns and opinions with a \$10,000 co-payment verses a \$35,000 co-payment. He distributed copies of their responses. EXHIBIT 12 REP. COHEN stated that the opinions of the Board members were varied. CHAIR RANEY recalled that Ms. Mills's amendments were to reduce co-payments and to include inactive old tanks. CHAIR RANEY stated that the \$35,000 co-payment was put in last session by the executive branch to help ensure that the fund didn't deplete too quickly and to put some responsibility on people with leaky tanks. If the co-payment is dropped to zero, people with leaky tanks have no responsibility for environmental clean-up. The fund covers environmental degradation and injury to third parties. The people will still be responsible for tank removal.

If more money is taken out of the fund, the cap will not be reached as quickly and the fuel tax will stay on longer. The affect will be increased costs to people who purchase gas.

Motion: REP. O'KEEFE MOVED HB 485 DO PASS.

Motion: REP. O'KEEFE moved to adopt an amendment to reduce the co-payment from \$35,000 to \$12,500.

Discussion: REP. O'KEEFE stated that, according to Ms. Mills, the co-payment of \$35,000 is too high for small operators. The small operators would like to comply but are unable to do so because the co-payment is too high. The Board differs amongst itself on this issue. It will be impossible to please them all. A \$5000 co-payment is too low and the fund would never grow. The \$12,500 is a compromise between the \$5000 and \$35,000 payments. CHAIR RANEY stated he would like to see the fund grow. He asked if the individual would end up paying \$6,250. REP. O'KEEFE replied yes.

REP. TOM NELSON suggested that John Dove's idea of establishing a sliding payment scale based on the age of the tanks might be appropriate. CHAIR RANEY stated that it is not feasible to establish the scale. REP. FOSTER stated that REP. GILBERT would not be agreeable to any co-payments less than \$17,500, and therefore, would oppose REP. O'KEEFE'S amendment. CHAIR RANEY reminded the committee that this type of amendment is actually outside the scope of the bill and was requested only by an individual business and by REP. BARNETT.

REP. HOFFMAN stated he did not understand the logic used to arrive at the \$12,500 co-payment and would vote against the amendment. He stated if the amendment failed then he would make an amendment of reduce it to \$10,000. CHAIR RANEY added if REP. O'KEEFE'S amendment passes, it will constitute a significant tax increase for gasoline consumers and the bill may need to be referred to Appropriations. REP. COHEN asked if the original bill had a co-payment in it. CHAIR RANEY responded that there was a holiday for the first two years. If the work didn't get accomplished in the first two years, a \$25,000 co-payment would be invoked. The co-payment was increased to \$35,000 by the governor. REP. COHEN stated that people have already started cleaning up and it would be unfair to them if the amendment was adopted. REP. FOSTER inquired how the amendment would result in a tax increase. CHAIR RANEY responded that if the amendments are adopted the existing gasoline tax scheduled to come off when the fund reaches a certain amount, would not come off for a very long time.

Vote: Motion to adopt Rep. O'Keefe's amendment to have a \$12,000 co-payment failed 2 to 16, with Reps. O'Keefe and Southworth voting yes.

Motion/Vote: REP. HOFFMAN moved to decrease co-payment to \$10,000. Motion failed 3 to 15.

Motion: CHAIR RANEY moved to adopt amendment "A" requested by Jean Riley, Petroleum Tank Release Compensation Board. EXHIBIT 13

Discussion: CHAIR RANEY asked Ms. Riley to explain the amendment. Ms. Riley explained that the amendment will keep regulated tanks out of the fund. It is a petroleum fund not a hazardous waste clean-up fund.

Vote: Motion to adopt amendment "A" carried unanimously.

Discussion: CHAIR RANEY asked Ms. Riley to explain amendment "B". Ms. Riley explained that the Board needs clarification whether they are suppose to cover abandoned tanks. Amendment "B" clarifies that abandoned tanks are excluded. If the Committee would like abandoned tanks to be included, the language should be changed to read "contains or contained".

REP. COHEN clarified that amendment "B" excludes defunct tanks from the program. He asked if there was another way to take care of the defunct tanks. Ms. Riley replied that if amendment "B" is adopted, defunct tanks would not be covered under the program. There is funding in the Lust Trust to cover abandoned tanks. REP. COHEN asked for more information on how the Lust Trust Fund operates.

Doug Rogness, DHES, explained that the federal Lust Trust Fund provides money to DHES. The money can only be used if the underground tank meets the federal definition of underground tanks and if a viable responsible party can't be found. Responsible parties are sometimes found but are not financially able or viable to perform or fund the clean-up. Because the fund is limited, priority is given to the tanks with the worst problems and threats to the environment. It is used in cases of old underground tanks with no responsible party identified. The responsible party must do the clean-up if they are financially capable. If they are not, then the Lust Trust Fund can be used. The fund is limited, therefore priority is given to the leaky tanks. REP. COHEN asked how much money is in the fund. Mr. Rogness replied that the amount in the fund varies. Currently it is approximately \$500,000/yr.

Motion: REP. COHEN moved to adopt amendment "B".

Discussion: CHAIR RANEY clarified that amendment "B" will result in defunct tanks being excluded.

REP. DAVE WANZENRIED stated that he had an amendment that would retain the status quo, and include coverage of defunct tanks. REP. RANEY stated that the bill, as introduced, was to provide an insurance mechanism for the business, because many are unable to

get insurance due to EPA's restrictions. This bill is the insurance policy for the business. Adding in abandoned tanks is a major change in the bill, even though DHES has been doing it for years. Including coverage for abandoned tanks may become a significant liability and gasoline taxes may increase.

Motion: REP. MEASURE MADE A SUBSTITUTE MOTION TO ADOPT REP. WANZENRIED'S AMENDMENT.

Discussion: REP. WANZENRIED stated that policy decisions are being made by excluding the abandoned tanks. It is a major problem that needs to be addressed immediately. Incentives are needed to promote the reporting and clean-up of tanks. REP. FOSTER agreed that abandoned tanks need to be cleaned up, however he stated that the fund may deplete quickly. REP. HOFFMAN said that only a small part of the fund is used for abandoned tanks. The abandoned tanks should be included. CHAIR RANEY asked Ms. Riley if she thought there may be a huge increase of abandoned tanks needing clean-up in the near future. Ms. Riley responded that it is hard to predict but that she anticipates a significant increase. REP. KNOX spoke in opposition to the amendment stating that the immediate problem needs to be addressed first. REP. WANZENRIED asked what will happen to those people that applied for and were granted money for abandoned tanks. REP. RANEY answered they will be unaffected. The bill takes affect July 1, 1991.

REP. MEASURE stated that if Rep. WANZENRIED'S amendments are adopted there would not be a problem with funding as there is over \$500,000 in the Lust Trust Fund and the other clean-up fund. He asked if the Lust Trust Fund will dry up soon. Mr. Rogness responded that Lust Trust funds are used for other problems besides abandoned tanks, such as oil spills. It is uncertain how long the funding will last. REP. COHEN suggested that a cleaner way to accomplish REP. WANZENRIED'S intent would be to incorporate Ms. Riley's language of "contains and contained". Ms. Riley proposed the following language:

Page 3, line 25, following "contains", insert "contains or contained"; Page 4, line 1, strike line 1 in it's entirety; and Page 4, lines 2 through 4, following "products" on page 2, strike remainders of line 2 through "discovered" on line 4.

Motion/Vote: REP. COHEN made a substitute motion to adopt the wording provided by Ms. Riley. Motion carried 12 to 6. EXHIBIT 14

Motion/Vote: REP. O'KEEFE MADE A SUBSTITUTE MOTION THAT HB 485 DO PASS AS AMENDED. Motion carried 17 to 1 with Rep. Gilbert voting no.

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-13-91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	/		
REP. BOB GILBERT	/		
REP. BEN COHEN	/		
REP. ORVAL ELLISON	/		
REP. BOB REAM	/		
REP. TOM NELSON	/		
REP. VIVIAN BROOKE	/		
REP. BEVERLY BARNHART	/		
REP. ED DOLEZAL	/		
REP. RUSSELL FAGG	/		
REP. MIKE FOSTER	/		
REP. DAVID HOFFMAN	/		
REP. DICK KNOX	/		
REP. BRUCE MEASURE	/		
REP. JIM SOUTHWORTH	/		
REP. HOWARD TOOLE	/		
REP. DAVE WANZENRIED	/		
REP. BOB RANEY, CHAIRMAN	/		

HOUSE STANDING COMMITTEE REPORT

February 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 485 (first reading copy -- white) do pass as amended .

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Page 3, line 22.

Following: "absolute)"

Insert: "or motor fuel blend such as gasohol"

2. Page 3, line 23.

Following: "a"

Strike: "minimal"

Insert: "de minimis"

3. Page 3, line 25.

Following: "~~contains~~"

Insert: "contains or contained"

4. Page 4, line 1.

Strike: line 1 in its entirety

5. Page 4, lines 2 through 4.

Following: "products" on line 2

Strike: remainder of line 2 through "discovered" on line 4

CLERICAL

(Legislative Council Staff)

☒ S / H Committee of the Whole

Bob Rany

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

1. Insert: "blend, such as gasoline,"

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

PETROLEUM TANK RELEASE COMPENSATION BOARD

Mr. Al Audet 740 Skyline Drive, Great Falls, MT 59403
phone: 453-5451 (work) 452-3917 (home)
position held: representative of the petroleum services industry
term ends: June 20, 1992

Mr. Ray Blehm Dept. of Justice, Fire Marshal Bureau, Room 371, Scott Hart Bldg., Helena, MT 59620
phone: 444-2050 (work) 443-2383 (home) 252-7051 (Billings, MT)
position held: state fire marshal
term ends: June 30, 1993

Mr. John Dove 436 King Street, Missoula, MT 59801
phone: 721-1000 (work) 549-0174 (home)
position held: representative of the insurance industry
term ends: June 30, 1992

Mr. Ron Guttenberg P.O. Box 1068, Glasgow, MT 59230
phone: 228-4329 (work) 228-8332 (home)
position held: representative of the general public
term ends: June 30, 1991

Mr. Ray Hoffman DHES, Cogswell Bldg., Helena, MT 59620
phone: 444-4255 (work) 458-5838 (home)
position held: representative of DHES director
term ends: June 30, 1993

Mr. Gary Tschache 433 S. Black, Bozeman, MT 59715
phone: 586-1079 (work) 587-2926 (home)
position held: representative of service station dealers
term ends: June 30, 1991

Mr. Howard Wheatley P.O. Box 1607, Great Falls, MT 59403
(Chariman of Board) phone: 453-0971 (work) 454-2087 (home)
position held: representative of independent petroleum marketers and chain retailers
term ends: June 30, 1992

TESTIMONY

Petroleum Tank Release Compensation Board
Jean Riley, Executive Director

The Petroleum Tank Release Compensation Board (Board) requested the proposed changes to Title 75 Chapter 11 Part 3. The Board is trying to clarify some issues which have come to light since this statute became effective in 1989. The following are the Board's reasoning behind the proposed changes and some proposed amendments which should help to further clarify the issues.

A. Definition of petroleum or petroleum products.

(15) "Petroleum" or "Petroleum products" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute) or motor fuel blend, such as gasohol, and that is not augmented or compounded by more than a minimal de minimis amount of another substance.

The reason for this change is to clarify that mixtures of waste oil and waste water or other mixtures with no commercial application are excluded, and that releases of mixtures of petroleum and hazardous substances which could result in hazardous waste also would be excluded.

B. Definition of petroleum storage tank.

(16) "Petroleum storage tank" means a tank that contains is being used to actively receive, dispense, or store petroleum or petroleum products when a release is discovered or that was actively used for any of these purposes no more than 1 year before the date that a release is discovered placed out of service on a temporary basis and is in compliance with department rule and that is:

The Board would like a clarification from the Legislature as to whether or not abandoned or defunct tanks not in use at the time the law went into effect, April 13, 1989, should be covered. The proposed language would exclude the defunct tanks. To date the Board has paid in excess of \$46,000.00 on 11 abandoned tank sites.

C. Definition of release.

The Board feels that the definition of release used by the Department of Health and Environmental Sciences (DHES) Underground Storage Tank Program better describes a release from a petroleum storage tank than the CECRA definition for release. The CECRA definition includes release from the abandonment or discarding of barrels, containers, and other closed receptacles which does not fit into the definition of a petroleum storage tank.

D. Limit assignment to designated representatives.

The Board has had problems in the past with owners not paying contractors for charges that the Board found to be ineligible. These charges include replacement costs and closure costs which are excluded by statute. The language clarifies that the owner or operator remains responsible for reimbursement of contractors or consultants.

E. Extend eligibility in some non-notification situations.

The Board has found that in some cases the DHES has waived the tank notification requirements. This proposed change would allow the Board the same flexibility.

F. Recognize tribal government authority.

The objective of this change is to allow the Board and DHES to recognize authority of tribal governments over tank leaks in Indian country, as EPA would require. This mainly makes sure that the tribal authority is notified similar to a local governmental agency.

E. Clarify Board and DHES roles in claim review process.

This would revise the statutory provision in the current statute to read like the actual practice. The claims are received by the Board staff and once determined to be complete, the Board staff transfers them to DHES for their review. This has been working well and the change would reflect this.

HOUSE OF REPRESENTATIVES
 NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 2/13/91 BILL NO. HB 485 NUMBER 1

MOTION: to adopt amendment suggested by Ms. Jean Riley; they are as follows:
Page 3, line 25, following "contains", insert "contains or contained"; page 4, line 1, strike
line 1 in its entirety; page 4, lines 2 thru 4, following "products" on page 2, strike remainder
of line 2 thru "discovered" on line 4.

NAME	AYE	NO
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓	
REP. BOB GILBERT		✓
REP. BEN COHEN	✓	
REP. ORVAL ELLISON		✓
REP. BOB REAM	✓	
REP. TOM NELSON		✓
REP. VIVIAN BROOKE	✓	
REP. BEVERLY BARNHART	✓	
REP. ED DOLEZAL	✓	
REP. RUSSELL FAGG		✓
REP. MIKE FOSTER		✓
REP. DAVID HOFFMAN	✓	
REP. DICK KNOX		✓
REP. BRUCE MEASURE	✓	
REP. JIM SOUTHWORTH	✓	
REP. HOWARD TOOLE	✓	
REP. DAVE WANZENRIED	✓	
REP. BOB RANEY, CHAIRMAN	✓	
TOTAL	12	6

CHAIRMAN--LAWRENCE STIMATZ
NORMAL SCHEDULE==> SITE: ROOM 405

DAYS: M,W,F

TIME: 3:00 P.M.

SECRETARY-ROBERTA OPEL

---BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES-----	COMMITTEE ACTION-----	REREFERRED TO COMM----	DATE OUT-
HB0351	2/27	3/18		ADVERSE RPT ADOPT		3/23
COHEN, BEN			INCLUDE WILDLIFE AS FACTOR IN BETTER MANAGEMENT OF FOREST LANDS			
HB0360	2/20	3/20		CONCUR AS AMENDED		4/02
HARPER, HAL			TERM CLARIFICATION FOR MEMBERS OF RESERVED WATER RIGHTS COMPACT COMM			
HB0361	2/20	3/20		CONCUR		3/21
HARPER, HAL			FEDERAL RESERVED WATER RIGHTS ADJUDICATION PROCESS CLARIFICATION			
HB0375	2/12	3/27		ADVERSE RPT ADOPT		4/02
HANSEN, STELLA			INCREASE PENALTY FOR LITTERING			
HB0377	2/19	3/13		CONCUR		4/02
RANEY, BOB			MEGALANDFILL SITING ACT			
HB0380	2/25	3/11		ADVERSE RPT ADOPT		3/27
DAILY, FRITZ			REQUIRE REMEDIAL ACTION TO PREVENT AQUIFER CONTAMINATION			
HB0382	2/15	3/20		CONCUR		3/21
SWYSGOOD, CHARLES			DAM SAFETY ACT REVISIONS			
HB0383	2/13	3/13		CONCUR		3/23
RANEY, BOB			HAZARDOUS WASTE FUELS REGULATION			
HB0414	3/28	4/10		CONCUR		4/11
COHEN, BEN			ESTABLISHING A WATER QUALITY REHABILITATION ACCOUNT			
HB0448	2/18	3/22		CONCUR		4/11
REAM, BOB			OMNIBUS HARD-ROCK MINING ACT AMENDMENTS OF 1991			
HB0485	2/20	3/25		CONCUR		3/26
RANEY, BOB			REVISING THE AUTHORITY OF THE PETROLEUM TANK RELEASE COMPENSATION BOARD			

Proponents' Testimony:

Neva Hassanein, Northern Plains Resource Council, appeared in support of HJR 31 and stated she hoped the comprehensive energy policy discussed in the resolution could be established by the next legislative session.

Janet Ellis, testified in support of HJR 31. (EXHIBIT #1).

John Lahr, on behalf of Montana Power, told the committee that he felt the fiscal note was "nonsense." Lahr said he was very comfortable with EQC conducting a study. "It is important to have EQC conduct the study, Lahr said, because it allows the legislature to control the study."

Gene Phillips, Pacific Power & Light, testified in support of HJR 31.

John Alke, Montana Soil & Utilities Company, stated support for HJR 31.

Alan Davis, Department of Natural Resources and Conservation, told the committee that DNRC had talked to the resolution's sponsor and there would be "some adjustments made regarding the fiscal note."

Dan Elliot, Public Service Commission, stated that "the two-year study period would allow consensus to develop in what could be a very complicated area."

Opponents' Testimony:

There were no opponent's to the resolution.

Questions From Committee Members:

There were no questions from the committee.

Closing by Sponsor:

Representative Raney stated he was "pleased that the committee, environmental organizations and the public service commission are all able to work together" and asked for the resolution to be concurred in.

HEARING ON HB 485Presentation and Opening Statement by Sponsor:

Representative Raney, District 82, stated HB 485 is designed to do "some cleanup work" on the Petroleum Tank Release and Compensation Fund established in the previous legislative session. The bill was requested by the petroleum board, Raney said.

Proponents' Testimony:

Jean Riley, Executive Director of the Petroleum Tank Release Compensation Board, stated that the bill addresses changes to Title 75, Chapter 11, Part 3. (EXHIBIT #1).

Frank Gessman, Department of Health and Environmental Sciences, testified in support of HB 485. (EXHIBIT #2 and 2a).

Rona Alexander, Montana Petroleum Marketer's Association, appeared in support of HB 485.

Chris Kaufman, Montana Environmental Information, stated that the MEIC were supporter's of HB 603 last session and favored changes made within HB 485.

Candace C. Mills, Mills Repair, Belgrade, submitted amendments to HB 485. (EXHIBIT #3).

Opponents' Testimony:

There were no opponents to HB 485.

Questions From Committee Members:

Senator Weeding asked Jean Riley why di minimus had been substituted for minimal?

Riley explained that di minimus concerned parts per million and the language change was done simply for consistency within the compensation fund organization.

Closing by Sponsor:

Representative Raney told the committee that HB 485 was one of his noncontroversial bills.

EXECUTIVE ACTION ON HJR 31

Motion:

Senator Bianchi moved that HJR 31 BE CONCURRED IN.

Discussion:

None.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion by Senator Bianchi that HJR 31 BE CONCURRED IN carried unanimously.

EXECUTIVE ACTION ON HB 485

Motion:

Senator Bianchi moved that HB 485 BE CONCURRED IN.

Discussion:

Senator Keating asked if costs imposed on people were too high?

Jean Riley commented that the Board needs \$17,500 for assets rather than liquid assets as the cost of replacement tanks is not covered by the Board.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion that HB 485 BE CONCURRED IN carried unanimously.

HEARING ON HB 639

Presentation and Opening Statement by Sponsor:

Representative Hansen, District 57, presented HB 639 which would increase the cost for disposal of refuse and increase the fine to \$25.

Proponents' Testimony:

Mitzi Schwab, Department of Health and Environmental Sciences, testified in support of the bill. (EXHIBIT #1).

Kelly Logan, District Sanitarian, Richland and McCone County Health Departments, testified in support of HB 639. (EXHIBIT #2).

Opponents' Testimony:

There were no opponents' to HB 639.

Questions From Committee Members:

Senator Hockett suggested to Representative Hansen that perhaps the penalty wasn't high enough.

Representative Hansen replied that the \$25 amount was requested

3-25-91

Natural Resources

VISITORS' REGISTER

[illegible]

TESTIMONY
Petroleum Tank Release Compensation Board
Jean Riley, Executive Director

The Petroleum Tank Release Compensation Board (Board) requested the proposed changes to Title 75 Chapter 11 Part 3. The Board is trying to clarify some issues which have come to light since this statute became effective in 1989. The following are the Board's reasons behind the proposed changes and some proposed amendments which should help to further clarify the issues.

A. Definition of petroleum or petroleum products, page 3 line 19-24.

The reason for this change is to clarify that mixtures of waste oil and waste water, or other mixtures with no commercial application are excluded, and that releases of mixtures of petroleum and hazardous substances which could result in hazardous waste also would be excluded.

B. Definition of petroleum storage tank, page 3 line 25 - page 4 line 22.

The Board would like a clarification from the Legislature as to whether or not abandoned or defunct tanks not in use at the time the law went into effect, April 13, 1989, should be covered. The original proposed language would exclude the defunct tanks. To date, the Board has paid in excess of \$46,000.00 on 11 abandoned tank sites. The amendment is how the House of Representatives felt that this issue should be handled.

C. Definition of release, page 5 line 3-7.

The Board feels that the definition of a release used by the Department of Health and Environmental Sciences (DHES) Underground Storage Tank Program better describes a release from a petroleum storage tank than the CECRA definition of a release. The CECRA definition includes a release from the abandonment or discarding of barrels, containers, and other closed receptacles which does not fit into the definition of a petroleum storage tank.

(over)

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES
UNDERGROUND STORAGE TANK PROGRAM
(406) 444-5970



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2806

HELENA, MONTANA 59620

TESTIMONY
for the
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
before the
SENATE NATURAL RESOURCE COMMITTEE

HOUSE BILL 485
March 25, 1991

SENATE NATURAL RESOURCES

EXHIBIT NO. 2
DATE HB 485
DATE NO. 3-25-91

The Department of Health and Environmental Sciences supports the passage of House Bill 485.

The Department's Underground Storage Tank Program works closely with the Petroleum Tank Release Compensation Board. The changes mandated by House Bill 485 will enhance the Board's ability to effectively administer claims and provide reimbursement of eligible costs incurred during the cleanup and remediation of accidental petroleum releases from underground storage tanks and piping.

The Department urges the Committee to give House Bill 485 favorable consideration.

ROLL CALL
Natural Resources
COMMITTEE

DATE 3-25-91

52

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Anderson	✓		
Senator Bengtson	✓		
Senator Bianchi	✓		
Senator Doherty	✓		
Senator Grosfield	✓		
Senator Hockett	✓		
Senator Keating	✓		
Senator Kennedy	✓		
Senator Tveit	✓		
Vice Chairman, Weeding	✓		
Chairman Stimatz	✓		

Each day attach to minutes.

Testimony of Candace C. Mills
Mills Repair
Belgrade, Montana 388-4213

To be entered into the Record
Senate Natural Resources Committee
Honorable Larry Stimatz, Chairman
Hearing on HB0485
March 25, 1991

Mr. Chairman, members of the committee,

I would like to request an amendment to HB0485, to change the provision in the fund for a \$35,000 shared deductible for qualified expenses to a \$ 10,000 shared deductible for qualified expenses. Please refer to the proposed amendment which follows my testimony.

The federal and state governments adopted legislation requiring underground storage tank owners to show proof of financial responsibility for \$1,000,000.00. The Petroleum Tank Release Compensation Fund was set up to assist UST owners in complying with this new requirement. While the fund currently may be used to demonstrate financial responsibility for \$982,500, many small businesses are unable to demonstrate financial responsibility for the remaining 17,500.

The reasons many small businesses cannot meet this requirement include an inability to pass the financial test because of low net worth; an inability to obtain a letter of credit because of no security; an inability to obtain a letter of credit because of bank reluctance to make loans to this type of business (resulting from unresolved lender liability issues); and an inability to obtain insurance because none is available to owners who have not yet made the system upgrades required by 1998.

Also, there are problems associated with pledging \$17,500 as proof of responsibility for those who are able to come up with it; it would tie up available credit which is desperately needed to meet the technical requirements for leak detection, upgrades or closures for USTs. Also, many service stations will be needing that credit to upgrade equipment in order to meet new Clean Air requirements. Please refer to the enclosed letter from Mr. Doug Tillet, President, Valley Bank of Belgrade.

There seems to be some concern that a lower deductible would let UST owners "off the hook". This is not the case. Tank owners are being required to fund very costly leak detection systems, upgrades or replacement of UST systems, or closure of USTs even though they may be perfectly sound. Even if there were no deductible, tank owners would have a tremendous financial responsibility. However, the amount of \$10,000 shared deductible seems to be sufficient to eliminate the concern of tank owner responsibility, yet

remains within reach of smaller businesses and does not so severely tie up available credit.

Through HB0485, the Board asks for clarification of the intent of the legislature regarding funding cleanup of abandoned tank sites. The monies in the fund are collected at functioning gasoline stations, presumably stations that are complying with state and federal regulations. It would be quite ironic if the legislature decided to use this fund to clean up tank sites for which no one is taking responsibility, from which no monies are being collected and for which there is a federal trust fund established, and yet make it virtually useless to those smaller businesses striving to comply but unable to come up with the required proof of responsibility for the deductible amount.

If the deductible is not lowered at this time, many small businesses, like my own, will be in a state of non-compliance with the regulations simply for lack of ability to meet this proof of financial responsibility requirement. Fines could force otherwise sound businesses into bankruptcy. Please give this request serious consideration as you discuss HB0485.

Thank you for considering this amendment. I would be happy to answer any questions.

PROPOSED AMENDMENT TO HB0485

(Please refer to page 6 of HB0485, line 20, which is Section 2(4) of Section 75-11-302 MCA; regarding the shared deductible as exists in the Petroleum Tank Release Compensation Fund.)

HB0485 amended to read:

As of effective date of HB0485, for releases that are discovered and reported on or after effective date, the board shall reimburse an owner or operator for 50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$995,000.

Valley Bank

P.O. Box 106 • 406-388-4283
Belgrade, MT 59714

March 18, 1991

Senator Larry Stimatz
Chairman, Natural Resources Committee
Montana Senate
Helena, MT 59601

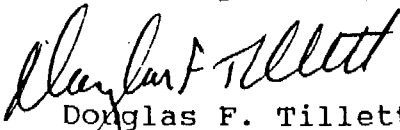
Dear Senator Stimatz:

Please accept this letter in support of amending language to House Bill 485 to allow for a lower deductible on the State Super Fund for the cleanup of contaminated sites. At the present level of \$17,500, many small operators are unable to provide a letter of credit to cover their share of potential clean-up projects. This burden not only limits their credit availability, which at times may be very marginal due to the smaller size of their operation, but also prohibits them from any longer range planning because of the large potential liability. I feel they certainly are not trying to avoid their responsibility, but realistically must realize the possibility of the failure of their business if called upon to provide a letter of credit of that magnitude.

Please consider a lower deductible limit as House Bill 485 is discussed.

Thank you for your time and understanding of this consequential situation.

Sincerely, .



Douglas F. Tillett
President

DFT/slf

CC: Candy Mills, Mills Repair